

Application Serial No. 10/687,943
Amendment dated Aug. 8, 2005
Reply to Office Action of April 19, 2005

CM01523LD01

REMARKS/ARGUMENTS

Claims 1-19 remain pending in this application. In response to the Office Action, claims 8 and 17 have been amended. Claims 1-7, 9-16, and 18-19 remain unchanged.

Rejection of Claims 8 and 17 under 35 U.S.C. § 112, second paragraph:

Claims 8 and 17 were amended to remedy the rejection under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention. Specifically, Claims 8 and 17 were amended to clarify that the current collector is interposed between the porous gas diffusion layer disposed on the first surface and a second opposing surface of the membrane electrode assembly. Applicants note that the claims have been amended to overcome this rejection, but the scope of the claim has not been narrowed as a result.

Rejection of Claims 1, 9, 10, 18, and 19 under 35 U.S.C. §102(e) as being anticipated by Kim et al (US Patent 6,699,611):

In response to the office action dated April 19, 2005, applicant hereby submits a declaration of same inventorship (37 C.F.R. §1.132) to overcome the cited United States Patent (US patent 6.699,611 to Kim et al). Applicant respectfully submits that the rejection of claims 1, 9, 10, 18, and 19 under 35 U.S.C. § 102(e) as being clearly anticipated by Kim et al (US Patent 6,699,611) is moot in view of the submitted declaration.

Rejection of Claims 10-12, 18, and 19 under 35 U.S.C. §102(e) as being anticipated by JP 6-267555:

The rejection of claims 10-12, 18, and 19 under 35 U.S.C. §102(e) as being anticipated by JP 6-267555 is respectfully traversed and reconsideration and withdrawal of the rejection is respectfully requested at this time.

Applicant respectfully submits that the invention as recited in Independent claim 10 is not anticipated by JP 6,267555. JP 6,267555 actually teaches away from the claimed invention since JP 6,267555 describes and claims a "solid high polymer electrolyte" only. JP 6,267555 does not anticipate this being an assembly of different layers of materials.

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Applicant respectfully requests reconsideration of the rejection under 35 U.S.C. §102(b) as being anticipated by JP 6,267,555 of claims 11 and 12. Claims 11 and 12 contain further limitations of the believed to be allowable claim 10.

Applicant respectfully submits that the invention as recited in amended claim 18 is not anticipated by JP 6,267,555. JP 6,267,555 actually teaches away from the claimed invention since JP 6,267,555 describes and claims a "solid high polymer electrolyte" only. JP 6,267,555 does not anticipate forming an assembly of different layers of materials.

Applicant respectfully requests reconsideration of the rejection under 35 U.S.C. §102(b) as being anticipated by JP 6,267,555 of claim 19. Claim 19 contains further limitations of the believed to be allowable claim 18.

Rejection of Claims 13-17 under 35 U.S.C. §103(a) as being unpatentable over JP 6-267555 in view of Fredley (U.S. Patent 5,998,058):

The rejection of claims 13-17 under 35 U.S.C. §103(a) as being unpatentable over JP 6-267555 in view of Fredley (U.S. Patent 5,998,058) is respectfully traversed and reconsideration and withdrawal of the rejection is respectfully requested at this time. Claims 13-17 contain further limitations of the believed allowable claim 10.

Rejection of Claims 2-8 under 35 U.S.C. §103(a) as being unpatentable over JP 6-267555 in view of Fredley (U.S. Patent 5,998,058) further in view of Kim et al (US Patent 6,699,611):

In response to the office action dated April 19, 2005, applicant hereby submits a declaration of same inventorship (37 C.F.R. §1.132) to overcome the cited United States Patent (US patent 6,699,611 to Kim et al). Applicant further hereby submits an attorney statement establishing same ownership to overcome the cited United States Patent (US patent 6,699,611 to Kim et al). Applicant respectfully submits that the rejection of claims 2-8 under 35 U.S.C. § 103(a) as being unpatentable over JP 6-267555 in view of Fredley (U.S. Patent 5,998,058) and further in view of Kim et al (US Patent 6,699,611) is moot in view of the submitted declaration and attorney statement.

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Double Patenting Rejection of Claims 1-17:

In response to the Examiner's rejection under obvious type double patenting, a terminal disclaimer, in compliance with 37 CFR § 1.321(b), is filed of even date herewith to overcome the obvious-type double patenting rejection. Since the above mentioned application and U.S. Patent No. 6,743,543 are commonly owned by the same assignee of the application, it is believed that the terminal disclaimer overcomes the obviousness-type double patenting rejection.

For the foregoing reasons, applicants respectfully request that the above rejections be withdrawn.

Inasmuch as this amendment distinguishes all of the applicants' claims over the prior art references, for the many reasons indicated above, passing of this case is now believed to be in order. A Notice of Allowance is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.


If the Examiner believes that there are any informalities which can be corrected by Examiner's amendment, or in the event that the Examiner deems the present application non-allowable, a telephone call to the undersigned at (954) 723-6449 is respectfully solicited.

The Commissioner is hereby authorized to charge any necessary fee due to Deposit Account No. 50-2117, Motorola, Inc., or credit any overpayment to the same account.

Respectfully submitted,

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